

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. CBA-2740-A

PETITION OF MID-ATLANTIC PETROLEUM PROPERTIES

OPINION OF THE BOARD

(Opinion Adopted September 5, 2007)

(Effective Date of Opinion: September 11, 2007)

Case No. CBA-2740-A is an application for a modification of an existing special exception for an automobile filling station. The Hearing Examiner for Montgomery County held a hearing on the application on April 13, 2007, closed the record in the case on July 5, 2007, and on August 3, 2007, issued a Report and Recommendation for approval of the special exception.

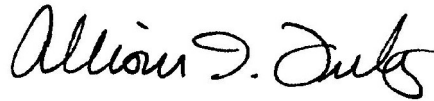
The subject property is Parcel B, Quince Orchard Subdivision, located at 12301 Darnestown Road, Gaithersburg, Maryland, 20878, in the C-1 Zone.

Decision of the Board: Special Exception Modification **Granted**
 Subject To Conditions Enumerated Below.

On August 31, 2007, the Board of Appeals received a letter, dated August 29, 2007, from Stanley D. Abrams, on behalf of the Petitioner. Mr. Abrams encloses a corrected site plan, which reflects a five foot high sight-tight fence running four feet off the western property line between the masonry retaining wall and Darnestown Road [Exhibit No. 58(a)], and a corrected landscape plan, which reflects a planting strip of Colorado Blue Spruce trees outside of the above-reference fence, and from which the word "Preliminary" has been removed [Exhibit No. 58(b)]. These corrected plans implement specific changes recommended by the Hearing Examiner.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation, together with Mr. Abrams letter of August 29, 2007, at its Worksession on September 5, 2007. After careful consideration and review of the record in the case, on a motion by Donna L. Barron, Vice-Chair, seconded by Catherine G. Titus, with Wendell M. Holloway, Caryn L. Hines and Allison Ishihara Fultz, Chair in agreement, the Board adopts the Report and Recommendation and grants the special exception modification subject to the following conditions:

1. Petitioner shall be bound by all of its testimony and exhibits of record, including the site plan and landscape plan to be submitted pursuant to Condition 3 below, the submitted Lighting Plan and Details, Exhibit 44(c), and the Master Site Plan, Ex. 9(a), and by the testimony of its witnesses and representations of counsel identified in the Hearing Examiner's report and in the Board's opinion.
2. All terms and conditions of the approved special exception shall remain in full force and effect, except as specifically amended by this modification.
3. The total square footage of the convenience store and the car wash building may not exceed 4,549 square feet.
4. To mitigate adverse traffic impacts on the intersection of Riffle Ford Road and Darnestown Road, Petitioner must make an additional payment equal to 50 percent of the applicable transportation impact tax before the issuance of any building permit associated with this modification.
5. The special exception shall be limited to a total of seven employees, with no more than three on site at any one time.
6. Hours of operation will be limited to 6:00 a.m. to midnight, seven days a week, for the gas station and convenience store, and 7:00 a.m. to 8:00 p.m. for the car wash.
7. Petitioner must comply with all applicable Montgomery County stormwater management regulations.
8. Signage on the subject site shall comply with the Montgomery County Sign Ordinance, Article 59-F of the Montgomery County Code.
9. No fluttering banners, pennants, spindles or other similar objects shall be displayed on the subject site. No sales or advertising signs shall be attached to the light standards or the monument sign.
10. No vehicle repair work, including painting, body work or fender repair, is permitted on the subject site.
11. All storage shall take place inside the convenience store or car wash building.
12. No vehicle rental activity may take place on site, nor may vehicles or trailers be stored on the site.
13. Trash must not be allowed to accumulate on site, and must be disposed of at regular intervals.
14. Driveways must be no wider than 30 feet.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 11th day of September, 2007.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.